

providing at least one dispatch server to communicate with said secure web server and a plurality of system resources, said dispatch server providing verification of system access and proxy generation for said system resources after said customer's entitlements have been verified;

providing said plurality of system resources, said system resources including a network manager which manages the routing of the customer's traffic over the communications network, and a view application to review said network traffic, said network manager and said view application responsive to proxy requests from said dispatch server to enable the customer to command and control the communications network resources provided by the enterprise to the customer.--

REMARKS

In response to the Restriction or Election Requirement Office Action ("Office Action") dated July 9, 2001, in the above-referenced application ("Application"), Applicants hereby elect Group I (claims 1-60 and 92-95) as set forth in paragraph one of the Office Action. Additionally, in response to the Species Requirement set forth in paragraph four of the Office Action, Applicants elect Species 1 - A system comprising protocol, at least one secure web server, at least one dispatch server and a plurality of system resources. Applicants respectfully submit that this species is embodied in claims 1-15 and 56-60. However, by way of the newly added claim above and of the remarks provided below, Applicants respectfully traverse both the restriction requirement and the requirement for an election of species.

By the addition of newly added claim 96, Applicants have provided a linking claim to link the previously restricted groups I and II. The linking claim is directed to a method of making the product which links the claims related to the product (Group I) and the claims related to the process of use (Group II).

Upon the allowance of the linking claim, the restriction requirement as to the linked inventions must be withdrawn by the Examiner and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) are entitled to examination in the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. In re Ziegler, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP Section 804.01. However, by way of the remarks provided

below, Applicants respectfully traverse the restriction requirement, Applicants respectfully request examination of all claims in the application.

Initially, Applicants note that Group I was indicated as being drawn to an integrated and secure system classified in class 709, subclass 223 while Group II was indicated as being drawn to an integrated and secure method for conducting business over the internet, classified in class 705, subclass 1. However, Applicants point out that each independent claim in both Group I and Group II are directed to conducting business over the internet which as indicated in the previously mailed Notice of Allowance dated October 2, 2000, would be issued in class 705, subclass 1. Applicants respectfully submit that there is no logical reason for separation of the method claims from the apparatus claims and placement of the apparatus claims in a subclass that is not associated with an aspect of conducting business, but instead dealing with Computer Network Management as in class 709, subclass 223. Additionally, Applicants fail to see how the claims in Group I could issue without having a search in class 705 subclass 1.

Applicants respectfully submit that the reasoning to find "distinct" inventions in the present application is suspect, at best. Specifically, when providing an example of how the process for using the product can be practiced with another materially different product, the Examiner referred Applicants to independent "claims 1, 16, 22, 30, 56 and 92." Applicants respectfully submit that this line of reasoning employed by the Examiner is entirely circular. The Examiner merely bootstraps upon his own assumption that the claims of group I are different" from the claims of Group II. Applicants respectfully submit that this line of reasoning is improper since Applicants own claimed subject matter is being assumed as a materially different process. Thus, Applicants respectfully submit that no proper example of a materially different product has been provided, as required by MPEP 806.05(h), by the Examiner.

Furthermore, Applicants respectfully submit that the examination of these claims as one group does not present an inordinate amount of burden to the Examiner. Applicants note that previously, this application had been examined and the Examiner that previously assigned to work on this application did not initiate a restriction requirement. This was further supported by the Examiner's supervisor who signed the Notice of Allowance prepared by the Examiner. Thus, Applicants respectfully submit that in initiating this response, the Examiner has overturned the decision made by two examiners that previously were involved with this application. Applicants respectfully submit that, as indicated in MPEP Section 704:


When an examiner is assigned to act on an application which has received one or more actions by some other examiner, full faith and credit should be given to the search and action of the previous examiner unless there is a clear error in the previous action or knowledge of other prior art. In general the second examiner should not take an entirely new approach to the case or attempt to reorient the point of view of the previous examiner, or make a new search in the mere hope of finding something.

In the present application, the examiner has not given full faith and credit to the Assistant Examiner or the Primary Examiner that were previously assigned to this application. Applicants respectfully submit that in view of the flawed reasoning for the restriction provided above, that full faith and credit has indeed not be granted to the prior actions in this application. Thus, for at least the reasons provided above, Applicants respectfully request withdrawal of the restriction requirement and examination of the claims on the merits.

Turning now to the election of species requirement, due to the addition of a linking claim, Applicants respectfully submit that the elected species 1 – A system comprising protocol, at least one secure web server, at least one dispatch server and a plurality of system resources can now be extended to include not only claims 1-15 and 56-60 but also method claims 61-65 as well as newly added independent claim 96. Applicants respectfully submit that, as asserted above and as indicated by the grouping of independent claims in the Reasons for Allowance dated October 2, 2000, claims 1-15, 56-65 and 96 accurately portray the species alleged in the Restriction Requirement.

While it is believed that the foregoing election places the Application in condition for examination, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner contact the undersigned to expeditiously resolve any outstanding issues.

Respectfully submitted,



Brian C. Oakes
Attorney for Applicant
Registration No. 41,467

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WORLD COM, Inc.
1133 19th Street, N.W.
Washington, D.C. 20036

Phone: (202) 736-6522
Fax: (202) 736-6824